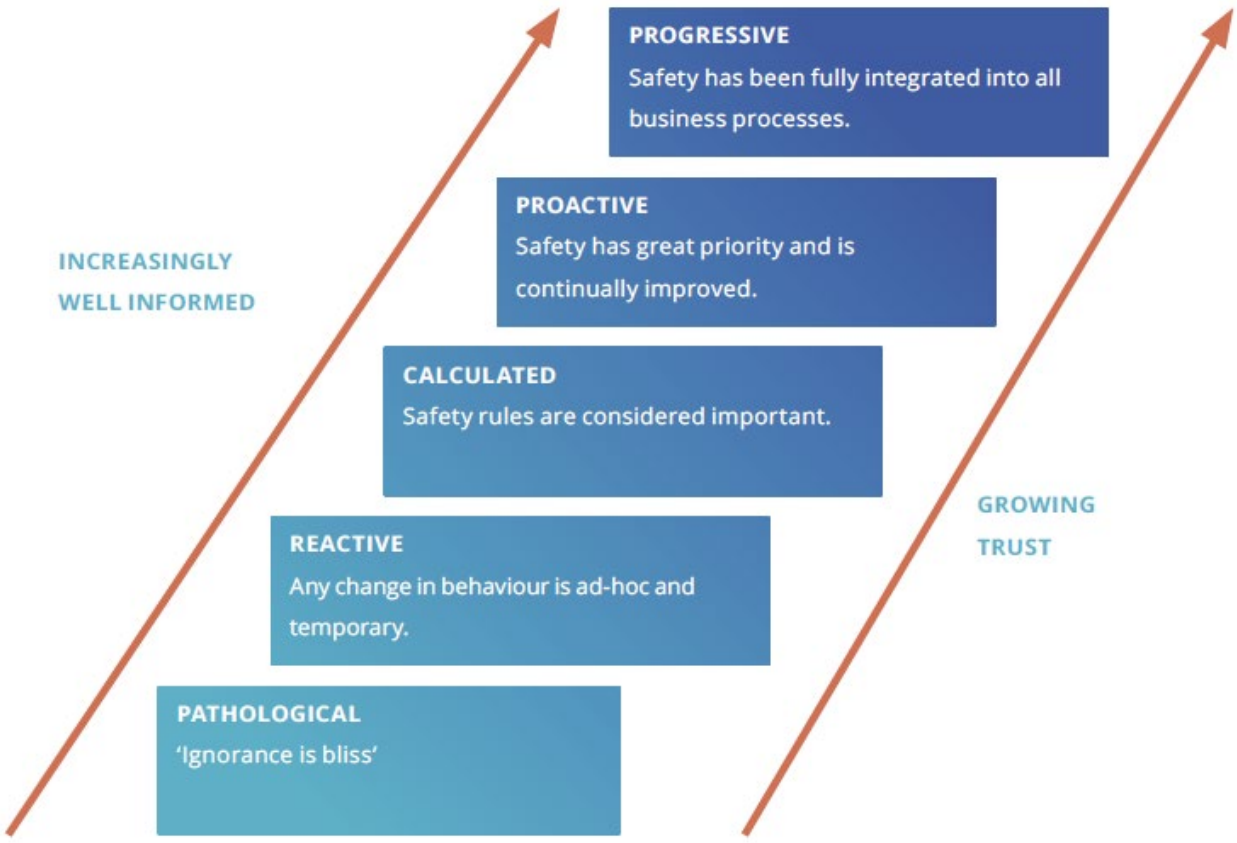
Guidelines for Safety in Tendering - Governance Code for Safety in the Construction Industry

Applicability of the Safety Culture Ladder in 'ViA'

Version 2.3, 19 October 2021



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1. Introduction

1.1. The Safety Culture Ladder

Many accidents still occur in the construction industry, despite the fact that there is a comprehensive system of laws, regulations, sector agreements and instruments to increase safety[1] during the execution of work. A number of large clients and industry players have therefore joined forces to further increase the level of safety: they want to include safety behaviour and awareness in a tender or contract. To this end, they are committed to using the NEN Safety Culture Ladder® as an instrument to promote safety awareness and consciously acting safely within organisations. Not only are organisations required to comply with the Safety Culture Ladder in full, they also require compliance from their contractors.

The Safety Culture Ladder aims to promote attitudes and behaviours with regard to safety in order to achieve a better safety performance. To achieve a step on the ladder, the safety culture at companies is measured on the basis of established agreements. Ladder Certifying Bodies (LCIs) also play a role in this, focusing on issues such as: training, reporting, learning from and following up incidents, being responsible and being held responsible, communication and leadership, among others. The Safety Culture Ladder gives an indication of the maturity of the safety culture within an organisation. The methodology of the Safety Culture Ladder is described in the Safety Culture Ladder Certification Scheme and the Safety Culture Ladder Manual (see: www.safetycultureladder.com).

These Guidelines for Safety in Tendering describe how the Safety Culture Ladder is applied in the Governance Code for Safety in the Construction Industry (GCVB) initiative called Safety in Tendering (hereafter referred to as: 'ViA'). These Guidelines are intended for both public contracting authorities and private clients, as well for as for contractors. Contractors may be: general contractors, subcontractors or suppliers of architectural and engineering services. A contractor may also be a client, such as a general contractor with regard to a subcontractor. In these Guidelines, the term client refers to an organisation that awards contracts to third parties and the term contractor refers to an organisation that accepts contracts from third parties.

1.2. Overview

Section 2 briefly outlines how the Safety Culture Ladder is applied in ViA and also provides the legal framework.

Section 3 focuses on clients, i.e. organisations and companies that award contracts to third parties, and discusses procurement on the basis of the Safety Culture Ladder in ViA.

Section 4 discusses how organisations and companies, both contractors and clients, can comply with the Safety Culture Ladder.

Appendix 5 fully incorporates the ViA Implementation, Enforcement and Sanctions Directive. Appendix 6 shows the revision history of this Guide.

These Guidelines include the information on the Safety Culture Ladder website www.safetycultureladder.com and in particular the Safety Culture Ladder Manual and the NEN Safety Culture Ladder Certification Scheme (see: https://www.safetycultureladder.com/en/certification/documents/). These documents describe the requirements that companies must meet in order to be certified. Future changes to the Safety Culture Ladder Manual will be incorporated into these Guidelines. This version of the Guidelines is in line with the Safety Culture Ladder Manual version 4.0 December 2020.

[1] Safety also includes health. Such as working with harmful substances.

1.3. Definition of terms

Various terms, synonyms and abbreviations were introduced when ViA was implemented. New product names were also introduced in early 2020. The following table gives an overview of the different product names that are or have been in circulation. These Guidelines use the new product names.

Name of ViA	Product Safety Culture Ladder[2]	Issue of LCI
certification	SCL	certificate including step
SCL Light audit	SCL Light	statement giving step indication
self-assessment	Approved Self Assessment, ASA	evidence that the process has been followed properly without a statement giving step indication

The following is an explanation of the various terms used in these Guidelines.

Approved Self Assessment	Product in the Safety Culture Ladder where an LCI checks a self-assessment conducted by a company based on a questionnaire (SAQ), product name for the most basic form of evidence in ViA
Audit	Investigation by an LCI into which step of the Safety Culture Ladder a company occupies
Certification	Following the Safety Culture Ladder process to obtain SCL certification
Qualification	Following the process to obtain one of the possible types of evidence in ViA: SCL (certificate), SCL Light (statement, formerly empirical audit), Approved Self Assessment
LCI	Ladder Certifying Body, a certifying body that certifies companies in the Safety Culture Ladder based on the 'Safety Culture Ladder Certification Scheme' (see www.safetycultureladder.com/nl/hoe-certificeren/ladder-certificerende-instellingen/)
Safety Culture Ladder	Safety Culture Ladder
SAQ	Self Assessment Questionnaire, questionnaire for self assessment (see www.safetycultureladder.com/en/certification/self-assessment-questionnaire-saq/)
SAQ Compact	Abbreviated self assessment questionnaire (required for Approved Self Assessment, not permitted for SCL Light, can be used with SCL)
SAQ Extended	Comprehensive self assessment questionnaire (required for SCL Light, not permitted for an Approved Self Assessment, can be used with SCL)
SCL	Safety Culture Ladder; product name for certification, the most stringent form of documentary evidence in ViA (formerly Safety Awareness Certificate)
SCL Light	Product name for SCL Light audit, the medium type of evidence in ViA (formerly SAQ+, also called empirical audit)
ViA	Safety in Tendering, the GCVB initiative that applies the Safety Culture Ladder to tenders and procurement in the construction industry (based on these Guidelines).

1.4. Disclaimer

No rights can be derived from these Guidelines. Clients are responsible for their manner of procurement and their use of the Safety Culture Ladder. The applicable laws and regulations are always leading. Furthermore, it should always be borne in mind that a decision may be made at any time after the publication of these Guidelines, such as by the European Court of Justice, which makes it necessary to amend the text of these Guidelines. To ensure that the legal and financial risks of all parties involved are limited, it is advisable, in case of doubt, to seek legal advice on the inclusion of

[2] There is a fourth product in the Safety Culture Ladder that is not applied in ViA: SCL Original. ProRail uses this form for rail-related activities in the qualification system and as the target level when awarding contracts. Activities performed for ProRail that are not covered by an accreditation scheme, fall under the requirements of ViA.

the Safety Culture Ladder criterion in specific tenders. NEN is not liable for any problems arising from the application of the Safety Culture Ladder in procurement processes.

2. The application of the Safety Culture Ladder in ViA

2.1. Requirements to demonstrate a step on the Safety Culture Ladder

There are three ways in which an organisation or company can be certified in ViA and thereby demonstrate that a certain step on the Safety Culture Ladder has been achieved:

- Certification: this leads to an SCL (certificate with step)
- SCL Light audit (previously empirical audit): this leads to an SCL Light (statement with step indication)
- Self-assessment: this leads to an Approved Self Assessment (evidence from LCI that the process has been followed properly, without mentioning a step).

Certification gives the most assurance, but requires a full audit by a Ladder Certification Institute (LCI). An SCL Light audit is a limited audit (40%, previously called an empirical audit). A *self-assessment* is not an audit, but an assessment of whether the correct process has been followed and as such this step offers the least assurance. It goes without saying that the efforts and costs involved in a Safety Culture Ladder product are higher the safer it is. The following section shows how these three types of requirements are linked to risk levels in ViA.

The Safety Culture Ladder Manual version 4.0 December 2020 describes how to obtain an SCL certificate, an SCL Light statement and an Approved Self Assessment. See the table and explanation below.

Product	**Year 1**	**Year 2**	**Year 3**
SCL (certificate issued)	100% audit	40% audit	40% audit
SCL Light (statement with step indication issued)	40% audit	Assessment of action plan (1 day, 1 auditor)	Assessment of action plan (1 day, 1 auditor)
Approved Self Assessment (LCI certificate without step indication issued)	Test self assessment, gap analysis and action plan (1 day, 1 auditor)	Assessment of action plan (0.5 day, 1 auditor)	Assessment of action plan (0.5 day, 1 auditor)

- For certification, a full 100% audit of the company is carried out, including during site tours, by LCI auditors in year 1. If a SCL is issued, it is valid for three years with a 40% audit in year 2 and year 3 (SCL Light audit). Another full audit is required in year 4.
- An SCL Light includes a 40% audit in year 1 and a check on the action plan by an LCI in year 2 and year 3. This is not a certificate, as the LCI can only give a step indication in the statement and cannot make a strict statement about an achieved step.
- For an Approved Self Assessment, the organisation carries out a self-assessment of its safety culture using a questionnaire (SAQ Compact, Self Assessment Questionnaire, see www.safetycultureladder.com/en/certification/self-assessment-questionnaire-saq/). The organisation also carries out a gap analysis and draws up an action plan. A certification body checks whether the self-assessment has been carried out properly and whether the gap analysis and the action plan have been drawn up properly. If this is the case, a statement is issued without a step indication. ViA rates this statement as a step 2 indication because the organisation demonstrates that it is taking the proper actions to address safety. The validity of an ASA is three years, with a check of the action plan by an LCI in year 2 and year 3.

2.2. The ViA risk matrix: when is what type of evidence required?

The matrix below shows how a company must demonstrate which step of the Safety Culture Ladder it is on in ViA. In each case, it is up to the client to determine which type of evidence is required on the basis of the risk matrix. The starting point is comply or explain, so follow this guide or explain why it is deviated from. A contractor may always submit more substantial evidence than is required, for example an SCL certificate when an SCL Light is required.

Companies with up to five employees, including freelancers, are exempted unless these companies are actually larger due to the structural deployment of third parties (see also paragraph 2.5). Although the same requirements for attitude and behaviour apply to these companies, they are not obliged to demonstrate this with an SCL certificate, SCL Light audit or Approved Self Assessment. However, they are likewise required to work and behave safely. The organisation that hires these freelancers and companies is expected to supervise the safe behaviour of these parties.

	IMPACT		
RISK Contract value	**Low** • Earthworks: earth moving; excavating, excavating and raising the ground / excavating wells, constructing drains, reinforcing dykes • Installation technology inside a building • Finishing work: work in (part of) a building that is largely wind-water proof e.g. façade constructions inside a building • Maintenance inside a building • Metering, testing and inspection companies	**Medium** • Non-residential low-rise building <13 m¹ (all work in the structural stage up to the façade and roof being sealed • Installation work outside <13m¹ on the façade or on the roof, e.g. air-conditioning units • Residential construction <13m¹ • Foundation work • Façade low-rise building <13m¹ • Road construction • Underground infrastructure: cables and pipes • Demolition work at low-rise <13m¹ and indoors • Maintenance of exterior façade and roof of low-rise	**High** • Non-residential high-rise building >13 m¹ (all work- in the structural stage up to the façade and roof being sealed) • Installation work outside >13m¹ on the façade or on the roof e.g. air-conditioning units • Stacked house construction >13m¹ • Façade high-rise building >13m¹ • Tunnel construction • Railway construction • Civil hydraulic engineering: bridges, dams, locks, etc. • Remediation of contaminated soil and asbestos • Demolition work exterior high-rise building >13m¹ • Maintenance of the façade and roof high-rise building >13m¹
High > €5 million			
Medium €1 to €5 million			
Low < €1 million			

Required evidence per risk:
Orange: SCL Certificate
Blue: SCL Light statement
Cyan: Approved Self Assessment

No audit:
Contract value up to €100.000
Companies up to 5 employees

* See the application of the risk matrix in the case of transport in paragraph 2.5.
* See the application in the case of architectural and engineering services in paragraph 2.6.

2.3. Contract value

The contract value is the amount of the expected turnover involved in the contract in question, excluding VAT. Clients may, but are not obliged to, choose not to base the contract value per case on the contract value of fixed partners in the matrix, but on the average annual turnover of all contracts awarded to that partner over the previous three years. In the case of a multi-year maintenance contract or a framework contract, the contract value should be based on the expected annual turnover of that contract. There is an exemption if the contract value is lower than € 100,000.

2.4. Impact category

In the risk matrix, common types of work are as classified low, medium and high according to impact class. When tendering or procuring, there may be work that cannot be unambiguously assigned to a particular impact class according to the matrix, for example because it is not mentioned in the matrix or because it consists of a mix of types of work. If more than 15% of the work falls into the high impact class, then the high class must be used for that contract. If less than 15% of the work falls into the high impact class and the rest into a lower impact class, then the lower class may be used. This means that it is a question of where the centre of gravity clearly lies. For example, installation work usually falls into the low impact class, even if it involves installations in a tunnel whose construction falls into the high impact class. This is because the safety risks in constructing installations in a tunnel are, in principle, no higher than in other structures. The same applies, for example, to the installation of suspended ceilings, plastering and interior painting. However, when it comes to work on the outside of a building, such as façade glazing, lightning protection, PV systems or roofing, the distinction between high-rise and low-rise buildings does determine the impact class. The upper limit for low-rise buildings is roughly four storeys (13m). If a contract includes work that is partly on the interior and partly on the exterior of the building, then the 15% rule of thumb mentioned above is intended as a guide to determine the impact class of the entire contract before determining, with this information and the contract value and using the risk matrix, which type of evidence is required. The impact class of work not mentioned in the matrix can be estimated on the basis of the matrix. For example, green work is comparable to earthwork and it is therefore obvious to use impact class low for this. If a contractor is in doubt as to which class a particular work belongs to, consultation with the client is recommended.

2.5. The Safety Culture Ladder in the case of subcontracting

A contractor that outsources part of the work to subcontractors remains responsible for ensuring that all those carrying out the work meet the required level on the Safety Culture Ladder. The contractor must therefore ensure that its subcontractors achieve at least the level of the Safety Culture Ladder that is required by the main client for the work. This is based on the reasoning that the subcontractor also determines the safety culture of the contractor. The foregoing also applies to other activities described below that the contractor has carried out by third parties, such as certain forms of transport and deliveries as well as advice and engineering (for the latter, see section 2.6). A contractor or subcontractor that engages third parties therefore also applies ViA, using the instructions in Section 3 and taking the following into account.

If a main contractor uses subcontractors and the contract of this main contractor leads to a qualification requirement in terms of size and impact class, then the main contractor demonstrates to its client that it is qualified for the proper level. It is up to the main contractor to check and monitor that all subcontractors in this project have qualifications at the proper level. The means by which the subcontractor may provide evidence to the main contractor that it has attained the proper level are determined by the matrix in paragraph 2.2. The decisive factors are the impact class and the contract value of the partial contract to the relevant subcontractor on the basis of the aforementioned matrix.

The question of whether and how subcontractors should attain the required qualification varies from situation to situation:

a. Companies that transport earth-moving machinery, lifting cranes, pile-driving equipment, concrete, building materials such as soil, sand, rubble, etc. and asphalt must have the required qualification because of the additional risks involved in this type of transport when approaching or leaving a construction site. The following rules of thumb apply to the impact class:
    - Building materials such as concrete mortar, soil, sand, rubble, etc.: low impact class.
    - Earth-moving machinery with regard to civil engineering: low impact class.

- Asphalt with regard to road construction: medium impact class.
- Transport of special/large/complex elements, such as lifting cranes, pile-driving equipment, floor and façade elements, portals, windmill blades, large machines, or parts thereof: medium impact class.
- Other transport where a driver or co-driver unloads goods at the construction site, whether using a crane attached to the truck or otherwise: low impact class.

In other cases, a supplier who only delivers materials to the gate and is not engaged to do anything more need not be qualified. This also applies to carriage paid deliveries that are unloaded by the contractor or subcontractor under supervision at the construction site and where the driver and any co-driver remains in the cabin.

b. A supplier must also be qualified in certain cases. The following examples give an indication.
   - If a supplier only visits the construction site for the start-up, it does not need to be qualified. However, if it also does assembly work then it must be qualified.
   - If deliveries are made to the building site under the supervision of the general contractor, as is often the case for sanitary waste or paving bricks where transport is usually contracted out to a transport company, then it does not need to be qualified.
   - A supplier who, for example, pours concrete, applies asphalt or collects sand on site must be qualified if it drives around the building site unaccompanied by the general contractor.
   - A supplier of, for example, internal walls or system ceilings who installs them on site or has them installed by third parties on its instructions must be qualified, while a supplier of frames and doors who does not install them itself or has them installed on its instructions is exempt.
c. A supplier of capacity, such as a secondment agency, temporary employment agency, etc., does not need to be qualified, unless it concerns the hiring of contractors, crane companies, etc. for manned equipment. The Safety Culture Ladder Manual specifies that the number of persons employed is based on the total of the own personnel + contracted personnel, whereby the auditors determine which persons are interviewed. The consideration here is that the day-to-day management, including safety, of hired personnel is a responsibility of the company hiring them.
d. If a company/organisation that employs fewer than five persons structurally performs work with a fixed team of freelancers or a fixed team of subcontractors, the total of the own personnel, the contracted personnel and the personnel of the subcontractors are included in the scope of the investigation. If the number of persons employed exceeds five, this company/organisation must comply with ViA. This is because one of the elements for determining the scope of the audit is the number of people employed (Section 6.3 of the Safety Culture Ladder). The number of people employed is based on the total of the own personnel + contracted and/or subcontracted personnel within the scope of the investigation.
e. If a contractor or subcontractor always works with the same chain partners and there is a relationship of authority between this contractor or subcontractor and these chain partners, then these chain partners can be included in the qualification document, such as the project certificate of this contractor or subcontractor, during project certification (see Section 2.7). A condition for this is that the employees of the chain partners are included in the audits and that the chain partners are mentioned by name in the qualification document. It is also important that the contractor manages the employees of the chain partners, in terms of safety, as if they were its own employees. This means, among other things, that these employees are included by the contractor or subcontractor in:
   - the hazard identification and risk assessment (RI&E),
   - the day-to-day supervision,
   - the receipt of information and instructions,
   - the assessment of safe working practices by carrying out workplace inspections, and
   - the review of safety, health and environment (SHE) matters before starting the work.

In the case of doubt, an assessment can be made on a case-by-case basis and in consultation with the clients in the spirit of the matrix in 2.2, whereby the criterion is the influence of the party in question on the safety of the construction site, the surroundings or the construction work itself, on the one hand, and the proportionality given the contract value on the other hand.

2.6. Architectural and engineering services

The basic principle is that architectural and engineering services fall within the scope of ViA insofar as they affect safety during construction, maintenance and use. By way of illustration, below is a non-exhaustive list of architectural and engineering services that are covered by ViA and those that are not.

f. Architectural and engineering services that **do** fall under the scope of ViA:
   - Design of buildings and civil engineering artworks
   - Urban design advice and landscape architecture
   - Construction advice
   - Installation design, engineering and advice
   - Management and supervision
   - Advice on fire safety, occupational health and safety, etc.
   - Project management
   - Project management/planning

g. Architectural and engineering services that **do not** fall under the scope of ViA:
   - Building cost advice
   - Legal advice
   - Advice on sustainability, such as EPC and MPG calculations
   - Building physics, except when it involves fire safety

The determination of the impact class in the risk matrix relates to the scope of the design or the advice given. For example, the architectural, building and structural design of an office building is in the medium impact class for low-rise buildings and in the high impact class for high-rise buildings. In both cases, the installation design will usually fall in the low impact class, provided that at least 85% of these installations are indoors.

Conditioning work, such as taking soil samples or investigating which flora and fauna are present in an area, falls into the low impact class if there are no particular safety risks associated with this work. This is because these activities usually take place before construction activities and the level of risk is usually comparable to that of measurement, testing and inspection services. However, in the case of, for example, explosives research or risky circumstances, such as increased risk of collision or other situations as listed in Annex II of Directive 92/57/EEC, the impact class is mid.

Contracts for architectural and engineering services may consist of a combination of the above disciplines. When combined disciplines fall under different impact classes, paragraph 2.4 can help determine which impact class the group falls into.

2.7. Company and project certification

The most appropriate way to qualify on the Safety Culture Ladder is as a company, either in its entirety or as part of a company, such as a branch or division. It is also possible to choose to qualify only for a specific project. This is explained in more detail below. For the sake of convenience, this is always referred to as certification, but it also applies to an SCL Light audit and to self-assessment.

In the case of **company certification**, a company can be fully or partially certified. The certificate is valid for three years. Partial certification may involve a division or business unit or a branch. However, it can also be a specific activity. For example, a contractor who also builds houses can only be certified for non-residential construction and a joinery can limit its certification to the part of the company involved in assembly on the job.

In the case of **project certification**, this involves a certificate that is customised and valid only for a specific project. Project certification is possible if the contracting authority allows scope for it; public contracting authorities in particular will allow scope for this. The contract requirements must then state that a qualification must demonstrate that the requirements have been met no later than three months after the start of execution. If the contractor already has a company certificate at the required level and the project in question fits within the scope of that certificate, it will be sufficient for the contractor to submit that company certificate and a project certificate will not be required. A qualification obtained specifically for the project in question cannot be used for other projects.

Project certification within the scope of ViA is possible in two ways:

- A collaborative working arrangement of companies, such as a consortium, joint venture or general partnership, that is certified as a whole. The collaborative working arrangement can be long-term for several projects or it can be on a one-off basis that is especially suitable for large, complex projects.
- A company that is a contractor or subcontractor can choose to certify only that part of its own organisation that is deployed on a specific project. The audit then only considers the departments involved in the project. This scope is described on the certificate, which is only valid for this particular project. When choosing between project certification and business certification, it should be kept in mind that business certification is easily more advantageous if one wants to be eligible for more contracts that fall within the scope of ViA within a year.

For both project certification and certification of a part of a company, the company indicates the desired project scope. This includes the fact that not every department involved in a work/activity has an impact on safety. During the intake in the offer phase, the LCI will discuss the scope of the audit with the company in question and indicate which departments do or do not fall within the scope and should or should not be included in the audit. In the case of doubt or discussion, the opinion of the LCI is decisive. The number of employees involved is then determined, the number of audit days are fixed and the audit planning is drawn up. The LCI then specifies the scope on the certificate and checks that the activities assessed match the desired scope description on the certificate.

2.8. Can a collaborative working arrangement or group submit a tender?

A collaborative working arrangement of companies can also participate in a tender and demonstrate, either specifically or through valid evidence of products of the Safety Culture Ladder, that the ViA criteria are jointly fulfilled. If a collaborative working arrangement wishes to use such a means of evidence, the client must stipulate in the tender documents that - of all the companies in the collaborative working arrangement - the company with the lowest level on the Safety Culture Ladder determines the level at which the collaborative working arrangement can tender. If one of the parties cannot demonstrate by means of a valid type of evidence that it complies with the level offered, or if the collaborative working arrangement wishes to tender at a higher level than the company with the lowest level makes possible, then the available means of evidence cannot be used and it will have to be demonstrated in another way, for example by means of project certification, that the collaborative working arrangement achieves the required safety level. The same applies to a situation in which a candidate relies on another natural person or legal entity to meet the suitability requirements. In that case, the natural person or legal entity relied upon in the context of the suitability requirements must also have evidence at the requested level.

2.9. Alternative methods of evidence

If the company does not have a valid SCL Certificate, Statement SCL Light or Approved Self Assessment, the company can demonstrate compliance with the requirement with an equivalent type of evidence[3]. The contracting authority should take into account that equivalent types of evidence from other Member States should also be accepted and that - if the company cannot acquire the evidence within the prescribed period for reasons beyond the company's control - the contracting authority should also accept other types of evidence showing that the company complies with safety standards. The burden of evidence that the required level of the Safety Culture Ladder is met, lies with the company. The client assesses whether the relevant means of evidence complies with ViA criteria. In practice, if the option is provided to obtain certification specifically for the project at hand, there will likely be no need for alternative methods of evidence.

[3] No equivalent evidence is known at this time. VCA and ISO 45001 are not equivalent evidence either.

3. Procurement with the Safety Culture Ladder

3.1. Different types of clients

There are three types of clients: public contracting authorities, special sector companies and private clients. The Public Procurement Act 2012 (Aanbestedingswet 2012) lays down requirements for public contracting authorities and special sector companies. A public contracting authority is defined in the Public Procurement Act 2012 (Aanbestedingswet 2012) as 'the State, a province, a municipality, a water board or any other public body or any association of these authorities or bodies governed by public law'. Special sector companies include national network operators for electricity, gas, water and public transport. Most other clients are considered as private clients. For tenders organised by private clients, but where more than 50% of the financing comes from public funds such as in the form of subsidies, the rules for contracting services of public contracting authorities also apply.

The procurement methodology described in this chapter can be used both by contracting authorities as well as by special sector companies and private clients. The term 'clients' is used hereafter, without further qualification, to refer to both public contracting authorities, special sector companies and private clients. Within the scope of ViA, contractors may also be clients in one project. This is subcontracting, whereby the ViA also applies.

3.2. Procurement with the Safety Culture Ladder

The Signatories of the Governance Code for Safety in the Construction Industry (GCVB), have agreed with each other not to apply the Safety Culture Ladder when awarding contracts (with the exception of rail). Therefore, these Guidelines only deal with their application in terms of suitability, selection or contractual requirements.

Public contracting authorities and special sector companies must comply with the procurement regulations. The methodology described in these Guidelines offers public sector clients guidance on how to apply the Safety Culture Ladder in a way that is consistent with the procurement regulations. In most cases, private parties do not have to comply with public procurement regulations when making purchases. If there is no obligation to call for tenders, they can use the same methodology if they wish, but do so voluntarily. The careful and correct application of the Safety Culture Ladder is extremely important for a successful procurement process.

The legal framework for procurement by public contracting authorities and special sector companies is determined by European procurement directives, which have been implemented in the Netherlands by means of the Public Procurement Act 2012 (Aanbestedingswet 2012). The Safety Culture Ladder can be used in different ways when tendering:

a) With regard to the **suitability requirements**, an SCL certificate may be requested as a minimum requirement depending on the nature and scope of the contract. In such case, a company's compliance with the requirements is checked during the tendering process[4].

b) In the case of a **pre-selection** procedure, in which the number of candidates allowed to tender is limited, the level of the SCL certificate held by a company can play a role in the selection of the candidates.

c) The **contract requirements** may include that the contractor must submit an SCL certificate at a certain level, either a company certificate or a certificate specifically drawn up for the project, no later than three months after the start of execution of the work. In this case, a check is made during the execution of the contract whether the contractor fulfils the requirements within the specified period, instead of during the tendering process. In

[4] For each contract, an assessment will need to be made of whether the requirements of Article 2.78a(1) of the Public Procurement Act 2012 (Aanbestedingswet 2012) are met.

general, a period of three months is considered reasonable. If the project is of short duration, the client may also set a deadline of less than three months.

When setting requirements, it should be taken into account that the Public Procurement Act 2012 (Aanbestedingswet 2012) states with regard to suitability, selection and contractual requirements that these must be 'related to' and 'reasonably related to' the subject of the contract. This means that the requirements must be 'reasonable' in relation to the scope and characteristics of the contract to be awarded. In this context, requiring a high level for a small contract with a low risk profile could be considered 'disproportionate'. Requiring an SCL certificate for the entire company when the contract in question will represent only a small percent of the company's turnover can also be considered disproportionate, as can requiring a certificate for the entire company for a contract in which foreign parties may be interested; if the foreign company has relatively little turnover in the Netherlands, requiring a certificate for the entire company is disproportionate. In such situations it is better to choose option c). In that case, the candidate has the option - after the award of the contract - to obtain a certificate specifically for the project (project certificate, see 2.7). If this option exists, the requirement will not easily be considered disproportionate.

Appendix 1 contains example text for the inclusion of the ViA requirement in a traditional contract based on STABU or RAW specifications. Appendix 2 contains example text for the inclusion of this requirement in an integrated contract based on UAV-GC.

3.3. Safety Culture Ladder criteria in the eligibility requirements

Companies that register as a candidate for a tender where a certain level of the Safety Culture Ladder criterion is included in the eligibility requirements, must be able to demonstrate that they meet this criterion at the time of registration/tendering by submitting a qualification at the requested level or an equivalent means of evidence, such as an SCL certificate, an SCL Light statement or an Approved Self Assessment (ASA). If a company has demonstrably not had the opportunity to qualify within the set deadlines for reasons beyond its control, the company may also submit other evidence that it meets the required level of the suitability requirement.

3.4. Safety Culture Ladder criterion as a selection criterion in a procedure with pre-selection where the maximum number of tenderers is fixed

A restriction on the number of candidates invited to tender, a pre-selection, may be appropriate in the case of a restricted procedure, a competitive dialogue, a competitive negotiated procedure or the innovation partnership procedure. In accordance with Article 2.99(3) of the Public Procurement Act 2012 (Aanbestedingswet 2012), at least five candidates[5] must be selected in the restricted procedure, and at least three candidates in the other aforementioned procedures. If more candidates apply than the maximum number to be admitted, the contracting authority may select the candidates allowed to tender partly on the basis of the level achieved by them on the Safety Culture Ladder. If a particular level of the Safety Culture Ladder is included as a suitability requirement in accordance with paragraph 3.1, points could be awarded at the further selection stage to candidates possessing a certificate with a higher level than that in the suitability requirement.

3.5. Safety Culture Ladder Criterion in the contract requirements

Instead of requiring a qualification at company level as a suitability requirement or as a criterion for further selection in the tender, it is also possible to include in the contract requirements that, with regard to the required level of safety, the contractor must submit a qualification no later than three months after the start of execution, either at company level or a

[5] Please note: Part 3 of the Public Procurement Act 2012 (Aanbestedingswet 2012) deals with special sector contracts and does not include this limitation. Special sector companies are therefore not bound by the numbers five and three, but the special sector company must determine the number of candidates in such a way that sufficient competition is safeguarded (see Article 3.65(2) of the Public Procurement Act 2012 (Aanbestedingswet 2012).

qualification specifically drawn up for the project. Checking for compliance then takes place after the conclusion of the contract, during the execution.

If the Safety Culture Ladder criterion is included in the contract requirements, failure to submit a qualification showing that the requirement has been met within three months may result in the contractor being declared in default and the work being halted, or - if there is no prospect of the contractor being able to meet the requirement in the very near future - the contract being terminated. It is recommended that the specific sanctions be explicitly included in the contract.

3.6. Checking the evidence against the requirement

The audit requirement is inextricably linked to the setting of requirements within the scope of ViA. In many cases, clients can check prior to the tender procedure whether prospective tenderers already meet the requirements of the Safety Culture Ladder by consulting the register, see www.safetycultureladder.com/en/certified-companies/. This register includes: SCL certificates, SCL Light statements and Approved Self Assessments. The statement indicates the company or business unit to which it applies, its period of validity and its scope of application. If the contract in question does not correspond to the scope of application (type of activities), the statement in question is not appropriate and the intended tenderer must first provide a supplement (a new declaration). When tendering or purchasing painting work, for example, the purchaser must check that the potential contractor is tendering with the correct certificate and not with a welding certificate. If option c) under 3.2 is chosen, the company can also choose a project certificate for this project.

The SCL Certificates show the step that was determined during the audit. Statements SCL Light also mention a step, but this is only an indication of the step. An Approved Self Assessment does not include a step statement. This is due to the fact that the check by the LCI of the self-assessment focuses more on the process than on the content and therefore no a statement can be made on whether or not a step has been achieved. In the case of the step 2 requirement within the scope of ViA, the absence of a step statement is not an impediment. The SAQ Compact translates the given answers into a score in the maturity model of the Safety Culture Ladder and, due to the design of the questionnaire, the score is always at least level 2. The most important function of the ASA is that the company not only learns to take a critical look at its own organisation, but that it also uses a GAP analysis to arrive at an action plan for improving the safety culture and starts work on this. This means that for the requirement for step 2, the purchaser only needs to verify which company or business unit the ASA statement applies to, as well as the period of validity and the scope of application.

3.7. Role of the client in executing a project with the Safety Culture Ladder

Clients use the Safety Culture Ladder to draw extra attention to safety awareness within a project. The primary responsibility for demonstrating that the project meets the required level of the Safety Culture Ladder lies with the contractor. The client is expected to take an active role and discuss with the contractor what the Safety Culture Ladder actually achieves in the project. This can be done, for example, by including safety awareness as an agenda item in all discussions with the contractor.

4. How a company qualifies for the Safety Culture Ladder

If your potential client requires your organisation to comply with ViA or if you want to qualify for the Safety Culture Ladder voluntarily, this chapter provides step-by-step instructions on how to do so. See Appendix 3 for a schematic representation. These instructions are also applicable to project certification (see 2.7).

4.1. Determine whether you are a client as well as a contractor

If you use contractors or subcontractors, you must also use ViA for procurement. Please refer to the instructions in Section 3. This can be done in parallel to following the step-by-step plan in this section.

4.2. Determine what you want to qualify for on the Safety Culture Ladder

Use the information in Section 2 to determine whether you need to be certified or whether an SCL Light audit or possibly even a self-assessment will suffice. You may be exempt, for example, because your company has fewer than five employees. Furthermore, decide whether you want the entire company to qualify or only certain activities or branches. If you opt for certification or SCL Light audit or Approved Self Assessment for a part of your company, ask yourself for which category of activities you want to be able to qualify for with regard to clients who make demands on the basis of ViA (scope of the qualification, see paragraph 2.8). If you opt for project certification, find out which departments of the company are involved in the task at hand.

More information can be found at: www.safetycultureladder.com/en/certification/
Or consult a company that is already certified (www.safetycultureladder.com/en/certified-companies/), a specialist consultancy firm or an LCI (www.safetycultureladder.com/en/certification/safety-culture-ladder-certifying-institution/).

4.3. Know where you stand by performing a self-assessment (SAQ)

Each SCL course starts with a compulsory self-assessment.

There are two versions of the Self Assessment Questionnaire in the web tool: SAQ Compact and SAQ Extended. The SAQ Compact is mandatory if you choose Approved Self Assessment and the SAQ Extended is mandatory if you choose SCL Light. In preparation for certification, you are free to choose which version of the SAQ you want to use: SAQ Compact, SAQ Extended or an SAQ of your choice.

In the case of an Approved Self Assessment, the step measured by yourself in the self-assessment will not be indicated by the LCI on the declaration to be entered on the register at: www.safetycultureladder.com/en/certified-companies/. In order to give your potential clients insight into the score of your self-assessment report, you can allocate them read only access to your Online File in the Safety Culture Ladder web tool at www.webtoolscl.nl/en. Allocating read only access is accomplished by sending a request to klantenservice@nen.nl stating the company name, the name of the person and the e-mail address.In this way, the purchaser to check whether you are on the proper step and thereby obtain an overall picture of the themes that are important in safety culture and how your organisation assesses itself in this regard (what are the weak points and what can still be worked on).

More information on the Self Assessment Questionnaire (SAQ) can be found at: www.safetycultureladder.com/en/certification/self-assessment-questionnaire-saq/. To start the SAQ, request a subscription or first create a free trial account, go to: www.webtoolscl.nl/en.

4.4. Know what you still have to do: gap analysis and action plan

When carrying out a self-assessment (SAQ), you not only see what your score is and whether it is sufficient for qualification, but also those aspects that you do not fully comply with. In a gap analysis, you identify these shortcomings and, in an action plan, you describe the steps you will take to eliminate them. If your score is sufficient to qualify, go to 4.6.

4.5. Implement actions according to the action plan and secure them permanently

This will ensure that you become qualified at the required level. Adapt the self-assessment report, the gap analysis and the action plan accordingly.

4.6. Engage an LCI (Ladder Certifying Body) and become qualified

See www.safetycultureladder.com/en/certification/safety-culture-ladder-certifying-institution/ to find out which Ladder Certifying Bodies (LCI) can qualify you on the Safety Culture Ladder. You can request a quote from the LCI of your choice. See Appendix 4 for a cost indication.

For more information on estimating audit costs see:

- The mandate table in paragraph 5.4 of Safety Culture Ladder Manual version 4.0 December 2020;
- The rate schedule for the payment costs at www.safetycultureladder.com/en/certification/tariffs/.

Successful completion of the process leading to a certificate/statement is followed by publication in the Safety Culture Ladder register at www.safetycultureladder.com/en/certified-companies/.

4.7. Ensure that you maintain your qualification

A certificate/statement has a validity of three years. In year 2 and year 3, you do not have to repeat the entire course that you completed in year 1. In year 2 and year 3, audit activities of a more limited scope take place.This means that in year 2 and year 3, in the opinion of the LCI, there must be sufficient progression in the implementation of the actions based on the action plan (no progression means stagnation and stagnation is seen as regression with the consequence that the qualification lapses and is removed from the register).

Appendix 1 Example of contract documents text that complies with requirement within the scope of ViA

The following text can be used in a traditional structure for a specification (RAW or Stabu) to comply with contract requirements.

01.06 WORKING CONDITIONS

01.06.XX Safety behaviour and awareness

01. The contractor meets the requirements for safety behaviour and safety awareness for step 2 of the NEN Safety Culture Ladder. The contractor shall, no later than 90 days after the date of the client's written acceptance of the contractor's offer, submit documentary evidence issued by a Ladder Certification Body demonstrating compliance with the requirements.
02. For the purposes of this agreement, the contractor must have a valid [*SCL certificate or SCL Light statement or Approved Self Assessment*] at least at the level required for the contractor's company or, in the case of a collaborative working arrangement, for each company in the collaborative working arrangement or, if project certification has been opted for, a valid [*SCL certificate or SCL Light statement or Approved Self Assessment*] at least at the level required for this agreement.
03. The contractor shall ensure that during the term of the agreement it meets the requirements of the step on the ladder at the required level of the NEN Safety Culture Ladder.
04. The contractor shall ensure that subcontractors or suppliers contracted by it, if and to the extent applicable, comply with safety behaviour and awareness at least at the level of the NEN Safety Culture Ladder that relates to the work of such subcontractor or supplier in accordance with the risk matrix in the Guidelines ViA at https://gc-veiligheid.nl/tools/veiligheid-in-aanbesteding-via. The Contractor shall also stipulate that such subcontractors or suppliers thereafter impose such obligations in full on all parties with whom they in turn enter into contracts for the purpose of performing this agreement.
05. The contractor shall maintain adequate administrative records for the performance of the agreement demonstrating compliance with requirements for subcontractors or suppliers regarding safety behaviour and awareness. These administrative records may refer to the declaration of the certifying body in the register at www.safetycultureladder.com/en/certified-companies/.

Explanation:
A step on the Safety Culture Ladder (SCL) is required within the framework of agreements made under the GCVB to promote safe conscious behaviour in all layers of the contractor's organisation in order to reduce the number of unsafe situations and resulting in fewer incidents (injuries, absenteeism, damage).

The SCL measures the maturity of an organisation with regard to safe conscious behaviour (attitude and behaviour) on a scale from 1 to 5. The contractor may have an independent certifying body assess whether it meets the requirements for safety behaviour and awareness in this agreement, either as an organisation or on a project basis. Certification is not always mandatory, but depends on the value and potential safety risks of the contract. High risks require a valid SCL certificate, medium risks an SCL Light statement and low risks an Approved Self Assessment (ASA). This is determined on the basis of the ViA (Safety in Tendering) risk matrix, see the ViA Guidelines at https://gc-veiligheid.nl/tools/veiligheid-in-aanbesteding-via.

For subcontractors or suppliers engaged by the contractor, another form of evidence may suffice, depending on the nature of the work performed by these subcontractors or suppliers and the value of the contract entered into by the contractor with these subcontractors or suppliers.

The contractor fails imputably to fulfil the agreement (imputable failure to meet one's obligations), if it does not fulfil the obligations included in this article. The client may attach sanctions to this, such as suspension of its payment obligations, full or partial termination of the agreement or claiming compensation for all damage suffered by the client as a result.

Appendix 2 Sample ViA request text for integrated contract

The following text can be applied as a contract requirement for an integrated contract under UAV-GC 2005.

Processes of the contracted party **General**	
Name	ensuring safety behaviour and awareness
Explanation	Promoting safety awareness in all layers of the contractor's organisation in order to reduce the number of unsafe situations and result in fewer incidents (injuries, absenteeism, damage). Context: The Safety Culture Ladder measures the maturity of an organisation with regard to safety conscious actions (attitude and behaviour) on a scale from 1 to 5. The contracted party may have an independent certifying body assess whether it meets the requirements for safety behaviour and awareness in this agreement, either as an organisation or on a project basis. Certification is not always mandatory, but depends on the value and potential safety risks of the contract. High risks require a valid SCL certificate, medium risks an SCL Light statement and low risks an Approved Self Assessment (ASA). This is determined on the basis of the ViA (Safety in Tendering) risk matrix, see the ViA Guidelines at https://gc-veiligheid.nl/tools/veiligheid-in-aanbesteding-via. For auxiliary persons engaged by the contracted party, another form of evidence may suffice, depending on the nature of the work performed by such auxiliary persons and the value of the contract entered into by the contracted party with such auxiliary persons. The contracted party fails imputably to fulfil the agreement (imputable failure to meet one's obligations), if it fails to fulfil the obligations set out below. In that case, the client reserves all rights, including suspension of its payment obligations, full or partial termination of the agreement, as well as the right to claim compensation for all damage suffered by the client as a result.

Requirement						
	ID	**Requirement name**	**Value**	**Unit**	**Reference document**	**Reference in document**
requirement	EIS-0547	Safety Culture Ladder step	The contracted party meets the requirements for safety behaviour and safety awareness of step 2 of the NEN Safety Culture Ladder (NEN, version 4.0, date 1 July 2016).	-	Guidelines ViA	
requirement	EIS-0548	Safety Culture Ladder compliance	The contracted party shall ensure that during the term of the agreement it meets the requirements of the ladder step at the required level of the NEN Safety Culture Ladder.	-		
Requirement	Requirement xxxx	Safety Culture Ladder independent auxiliary persons	The contracted party shall ensure that the auxiliary persons contracted by it, if and to the extent applicable, comply with safety behaviour and awareness at least at the required level of the NEN Safety Culture Ladder that relates to the work of such auxiliary persons in accordance with the ViA risk matrix. The contracted party shall also stipulate that such independent auxiliary persons thereafter transfer such obligations in full on all parties with whom they in turn enter into contracts for the purpose of performing this agreement.	-	Guidelines ViA	
requirement	Requirement xxxx	Safety Culture Ladder administrative records	the contracted party shall maintain adequate administrative records for the purpose of the performance of the agreement, demonstrating its compliance with requirements for independent auxiliary persons regarding safety behaviour and			

			awareness. These administrative records may refer to the declaration of the certifying body in the register at www.safetyculturelader.com/en/certified-companies/.			

Output-document	
ID	**output-document**
OUT-012	Evidence of safety behaviour and awareness of contracted party (Approved Self-Assessment)
OUT-013	Evidence of safety behaviour and awareness of contracted party (SCL certificate)
OUT-014	Evidence of safety behaviour and awareness of contracted party (SCL Light statement)
OUT-015	Evidence of safety behaviour and awareness of independent auxiliary persons

OR:

Output-document Evidence of safety behaviour and awareness of contracted party (SCL certificate)	
General	
Name	Evidence of safety behaviour and awareness of contracted party (SCL certificate)
explanation	Documentary evidence issued by a Ladder Certification Body demonstrating compliance with the requirements.

obligation	
Time	No later than 90 days after the date of the client's written acceptance of the contracted party's offer. (Basic agreement recital sub (f))
Submission obligation	Acceptance
Response period	10 days

Requirement						
	ID	**Requirement name**	**Value**	**Unit**	**Reference document**	**Reference in document**
requirement	EIS-0551	SCL certificate level	a valid SCL certificate at least at the level required for the contractor's company or, in the case of a collaborative working arrangement, for each company in the collaborative working arrangement or, if project certification has been opted for, a valid SCL Certificate at least at the level required for the project in question	-		

OR:

Output-document Evidence of safety behaviour and awareness of contracted party (SCL Light statement)	
General	
Name	Evidence of safety behaviour and awareness of contracted party (SCL Light statement)
explanation	Documentary evidence issued by a Ladder Certification Body demonstrating compliance with the requirements.

obligation	
Time	No later than 90 days after the date of the client's written acceptance of the contracted party's offer. (Basic agreement recital sub (f))
Submission obligation	Acceptance

Response period	10 days

Requirement						
	ID	**Requirement name**	**Value**	**Unit**	**Reference document**	**Reference in document**
requirement	EIS-0552	SCL Light statement	a valid SCL Light statement at least at the level required for the contractor's company or, in the case of a collaborative working arrangement, for each company in the collaborative working arrangement or, if project certification has been opted for, a valid SCL Light statement at least at the level required for the project in question	-		

OR:

Output-document Evidence of safety behaviour and awareness of contracted party (Approved Self-Assessment)	
General	
Name	Evidence of safety behaviour and awareness of contracted party (Approved Self-Assessment)
explanation	Documentary evidence issued by a Ladder Certification Body demonstrating compliance with the requirements.

obligation	
Time	No later than 90 days after the date of the client's written acceptance of the contracted party's offer. (Basic agreement recital sub (f))
Submission obligation	Acceptance
Response period	10 days

Requirement						
	ID	**Requirement name**	**Value**	**Unit**	**Reference document**	**Reference in document**
requirement	EIS-0553	Approved Self Assessment	a valid Approved Self Assessment at least at the level required for the contractor's company or, in the case of a collaborative working arrangement, for each company in the collaborative working arrangement or, if project certification has been opted for, a valid Approved Self Assessment at least at the level required for the project in question	-		

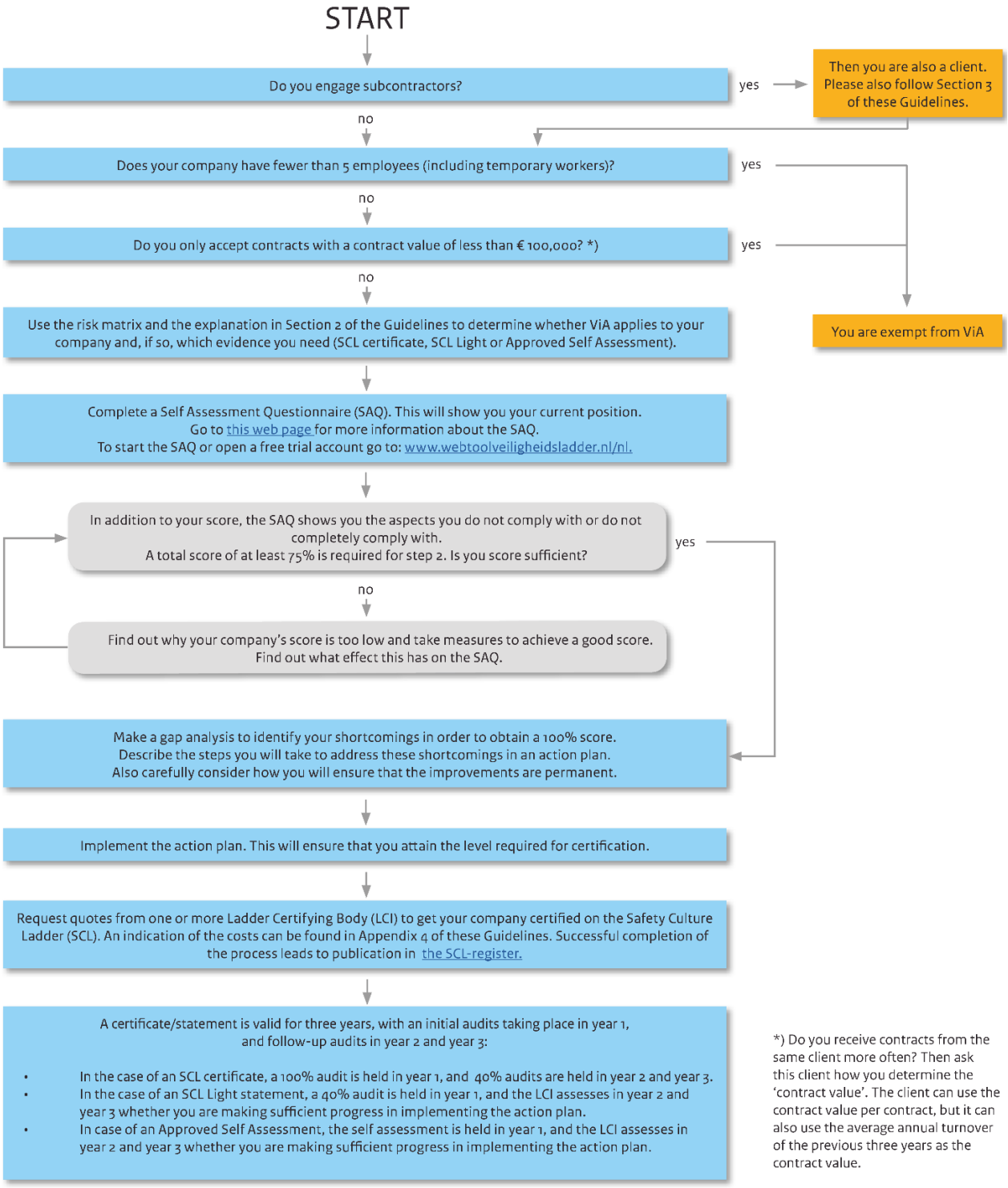
Output-document Evidence of safety behaviour and awareness of independent auxiliary persons	
General	
Name	Evidence of safety behaviour and awareness of independent auxiliary persons
explanation	Documentary evidence issued by a Ladder Certification Body demonstrating compliance with the requirements.

obligation	
Time	No later than on the date on which the contracted party has awarded a contract to the independent auxiliary person

Submission obligation	
Response period	

Requirement						
	ID	**Requirement name**	**Value**	**Unit**	**Reference document**	**Reference in document**
requirement	EIS-0554	Evidence of safety behaviour and awareness of independent auxiliary persons	a valid evidence of safety behaviour and safety awareness at least at the level required level for the business of this independent auxiliary person.	-		

Appendix 3 Outline of how to comply with the requirements of ViA



*) Do you receive contracts from the same client more often? Then ask this client how you determine the 'contract value'. The client can use the contract value per contract, but it can also use the average annual turnover of the previous three years as the contract value.

Appendix 4 Cost indication

The table below sets out what the average annual costs are for obtaining a qualification for the Safety Culture Ladder under ViA in a number of situations.

	Company A	Company B	Company C	Company D	Company E
Size of organisation	10 employees	30 employees	60 employees	200 employees	2,000 employees
Certification					
Audit length	2	2.4	3	5	8.5
Audit costs	€ 2,400	€ 3,800	€ 4,800	€ 7,900	€ 13,000
SCL Light audit					
Audit length	1	1	1	1.5	2.2
Audit costs	€ 1,600	€ 1,600	€ 1,650	€ 2,350	€ 3,600
Self assessment					
Audit length	0.5	0.5	0.5	0.5	0.5
Audit costs	€ 980	€ 980	€ 1,030	€ 1,030	€ 1,030

Explanation

- The table applies to step 2. For step 3, the audit length (and therefore the costs) are a factor of 1.5 higher.
- This table shows the average number of days per year that auditors are deployed. The audit duration in years 2 and 3 is lower than in year 1..
- Interviews for certification and for SCL Light audit are conducted by two auditors.
- The verification of a SAQ (Self Assessment Questionnaire), gap analysis and action plan in year 1, requires one full day (1 auditor).
- The check up of the (approach and progress of) the action plan in years 2 and 3 of an Approved Self Assessment, requires one full day (1 auditor) and an SCL Light audit requires half a day (1 auditor).
- The cost indication is based on an average daily rate of € 1,400 (in general). The applicable fees (rounded up) are also included.
- The cost estimate does not include internal costs for preparing for and attending audits, etc.
- No rights can be derived from this cost indication. To determine the costs in a specific situation, a Ladder Certifying Body (LCI) should be contacted. See: www.safetycultureladder.com/en/certification/safety-culture-ladder-certifying-institution/.

Appendix 5 Guidelines on implementation, enforcement and penalties ViA

Basic principle
The signatories to the Governance Code for Safety in the Construction Industry (GCVB) have agreed to embed ViA in their business practices and to apply it to all contracts including those for architectural and engineering services. Public contracting signatories declare ViA applicable to all their contracts within the scope of ViA. Private signatories apply ViA as a standard even if this is not required as a contract requirement.

The signatories undertake to assist the chain to jointly improve safety in the construction industry by:
- meeting the minimum requirements of ViA agreed under the GCVB at all times;
- implementing an enforcement and sanction policy based on this memorandum.

These agreements ensure a *level playing field* which allows contractors to include the costs under their General Expenses (AK) without harming their competitive position. The investment in ViA will lead to a safer working environment, fewer incidents and accidents, and thus a more efficient work process.

In order to collectively demonstrate that we are actually going to implement and apply ViA, we will explicitly state in our information and communication that:
- if a contractor fails to comply with ViA requirements in a timely manner it shall be in default; and
- sanctions may be imposed.

This shall then be realised in accordance with the agreements made by the signatory with the contractor, as laid down in the contract and/or the contractor's own purchasing conditions.

This memo is a guideline and indicates the conduct that the signatories can expect from each other. The signatories are free to include a specific interpretation in the tender documents or request for tender, the contract requirements or the client's purchasing conditions or a specific interpretation in combination with their own safety policy, which already includes an enforcement, sanction and incentive policy.

Explanation of the distinction between public and private signatories
Different regulations apply to public contracting signatories (government contracting authorities) than to private signatories. If a public contracting authority requires the Safety Culture Ladder (SCL) in a tender, it may be discriminatory and disproportionate to require a certificate as an eligibility criterion[6] because a company certificate may not have a sufficient connection with the subject matter of the contract for certain candidates[7]. Therefore, for contracts of the Rijksvastgoedbedrijf (Government Real Estate Agency) and Rijkswaterstaat, a requirement regarding the required step on the Safety Culture Ladder will be included as a contract requirement, without a suitability requirement, and the contractor must demonstrate that it is at the required step no later than 90 days after the date of award of the contract. In such case, the required step can be proved by a company certificate or by a project certificate[8]. If the Contractor is unable to submit the qualification[9] on day 90, it shall be in default[10]. Other clients are at liberty to follow the same system.

[6] Refers to professional competence as referred to in Article 2.90(2e) of the Public Procurement Act 2012 (Aanbestedingswet 2012).

[7] Article 1.10(1) Public Procurement Act 2012 (Aanbestedingswet 2012).

[8] For an explanation of company certification versus project certification, see paragraph 2.7 of the ViA Guidelines.

[9] Depending on the contract value and impact: an SCL Certificate, an SCL Light Statement or SCL Approved Self Assessment.

[10] Paragraph 43 of the Uniform Administrative Conditions for the Execution of Works 2005 (Uniforme Administratieve Voorwaarden voor de uitvoering van werken) of paragraph 46 of the Uniform Administrative Conditions for the Execution of Works 2012 (Uniforme Administratieve Voorwaarden voor de uitvoering van werken)

Implementing ViA Guidelines
The question of whether ViA applies depends on who is the initiator/main client. In concrete terms, this means the following:

- In the case of a contract of a public contracting client, the ViA applies if the publication date of the Contract Notice11 is on or after 1 January 2022.
- In the case of self-development for or by a private signatory, ViA applies if the first construction-related investment decision after purchase of the land is made on or after 1 January 2022.
- In other cases, ViA applies if the date of the call for tender for the main contract is on or after 1 January 2022.

In the case of current framework agreements, such as those for maintenance, the ViA requirement will apply from the next contract renewal on or after 01-01-2022.

This approach limits the demands on the capacity of the certification bodies (CIs). If ViA were also to be required for current contracts, then the CIs would not be able to meet the demand.

It is possible that a contractor loses its ViA qualification during the contract period or does not renew it or fails to renew it on time. In such case, the contractor shall be in default. In order to ensure that a contractor continues to perform at the applicable ViA level during the term of a contract awarded to it, the minimum requirement must be included in the contract in all cases[12]. When ViA is used in the suitability requirement, this minimum requirement is equal to the suitability requirement.

For private signatories, the rule of thumb when using ViA as a suitability criterion is that certified contractors are always preferred to comparable non-certified contractors. If too few parties are certified for certain activities at the start, the criterion is that companies that are not yet certified but that have engaged a certification body to carry out a self-assessment are given preference over similar non-certified contractors. It is up to the signatory to incorporate this into its own policy, whereby private signatories can also use ViA as a contract requirement rather than as a suitability requirement.

Enforcement of the Guidelines and sanctions
In general, a contract will mention any possible consequences if a contractor fails to comply during the performance of the contract. This is often secured in a generic provision[13].
A careful process must precede the use of such a provision. The questions to be considered are the extent to which the shortcoming is culpable, the efforts made and to be made by the contractor to meet the requirements, extenuating circumstances, the response to warnings and the response to the recovery opportunities offered, etc. In addition, when a qualification is lost in the interim period, the circumstances of the case must be considered and how this is dealt with within the scope of the SCL Manual.[14].

In principle, all signatories agree that, after careful consideration, clear enforcement is important in order to guarantee the safety culture and the mutual level playing field. For government contracting authorities, this means that the sanction

[11] In the case of a Multi-private tender procedure: the invitation to tender. In the case of a Single-private tender procedure: the call for tender.

[12] The contractual requirement may be uniform; see the example in the Guidelines ViA in Appendix 1.

[13] For example: see Article 46 of the Uniform Administrative Conditions for the Execution of Works 2012 (Uniforme Administratieve Voorwaarden voor de uitvoering van werken) and Article 43 of the Uniform Administrative Conditions for the Execution of Works 2005 (Uniforme Administratieve Voorwaarden voor de uitvoering van werken)

[14] The Safety Culture Ladder Manual (see https://www.safetycultureladder.com/nl/hoe-certificeren/documenten/) gives a recovery period of 13 weeks in the case of a negative outcome of a follow-up audit. If the second measurement gives a positive result, the shortcoming is invalidated.

for non-compliance is the suspension of relevant parts of the work or the replacement of a non-certified subcontractor. If there is no improvement, the ultimate consequence is the termination of the contract.

In principle, the same applies to the private signatories, although stopping the work because one of the sometimes multiple contractors does not comply with ViA is not an obvious course of action. Also in this case, the ultimate consequence is cancellation of the contract and replacement by another certified contractor.

Imposing a penalty when the requirements of ViA are not met or are no longer met is not an option, because it sends the wrong message that safety is exchangeable for money. After all, a contractor could calculate the fault in advance and thus set it off against the investment in the safety culture and the achievement of the qualification.

Contract management
Finally, it is explicitly recommended that use is made of the options offered by contract management to give timely signals if there is a well-founded suspicion that a contractor will not meet the requirements on time, in order to avoid, as much as possible, being confronted with a fait accompli with possibly far-reaching consequences when the deadline has passed.

In conclusion
This is an internal document by and for the signatories of the GCVB that is intended to act as advice on how to deal with ViA without entering into the contractual obligations agreed between signatories and their contractors. No rights can therefore be derived from this.

Appendix 6 Version management

Compared to version 2.0, version 2.1 contained changes in paragraphs 2.1, 2.4, 2.5 and 3.6 as well as in footnote 2.
In version 2.2, the following changes have been made compared to version 2.1:

- The title of the Guidelines has been changed so that it is more appropriate. The earlier title 'Guidelines Safety Culture Ladder' suggested that it was mainly about the Safety Culture Ladder, while that is what NEN's 'Safety Culture Ladder Manual' is for. Moreover, these Guidelines were already commonly referred to as 'Guidelines ViA' in the corridors.
- In paragraph 1.2, the reference to NEN's Safety Culture Ladder Manual has been adapted to the new version 4.0 of that Manual.
- In paragraph 2.1, various corrections have been made to the table.
- In paragraph 2.2 the risk matrix has been revised. The description of the impact classes has been expanded. As a result, the diagram is closer to the text in the Guidelines and is expected to remove many ambiguities.
- In paragraph 2.4, lightning protection and PV systems have been added as examples of types of installation work that fall into a higher impact class than predominantly indoor installation work.
- In paragraph 2.5, when and how ViA applies to transport is more clearly defined. The text has also been tightened up to indicate that the ViA also applies to companies that have fewer than five employees but are actually larger due to structural deployment of third parties.
- In paragraph 2.6, the text has been supplemented to clarify the application of the ViA by suppliers of architectural and engineering services.
- Appendices 1 and 2 have been completely revised.

In version 2.3, the following changes have been made compared to version 2.2:

- In paragraph 2.2 the principle ‘comply or explain’ has been added.
- In paragraph 2.4 the explanation is improved of how to determine the impact class for a contract as a whole when parts of the contract fall into different impact classes. There is also given an example of activities that are not mentioned in the risk matrix how the impact class is determined in that case.
- In paragraph 2.5, the introduction has been supplemented to make it clear that this section is about more than just pure subcontracting. Furthermore, in point b, the introductory phrase has been simplified to avoid confusion caused by the former text. A correction has been made in point e because the inclusion of contractors in the audit and on a company's certificate is only possible in case of project certification.
- In paragraph 2.6, the text has been supplemented further to clarify the application of the ViA by suppliers of architectural and engineering services.
- Appendix 5 reproduces the Guidelines ViA implementation and enforcement in their entirety.